

AMENDED IN SENATE APRIL 15, 2013

AMENDED IN SENATE APRIL 1, 2013

SENATE BILL

No. 254

Introduced by ~~Senator~~ *Senators Hancock and Correa*

February 13, 2013

An act to add Chapter 21 (commencing with Section 42985) to Part 3 of Division 30 of the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 254, as amended, Hancock. Solid waste: used mattresses: recycling and recovery.

~~(1) Existing~~

Existing law requires a retailer of various specified products, such as rechargeable batteries and cellular telephones, sold in the state to have in place a system for the acceptance and collection of those products for reuse, recycling, or proper disposal.

This bill would establish the Used Mattress Recovery and Recycling Act. The bill would authorize a qualified industry association, as defined, to establish a mattress recycling organization, as defined, and be certified by the Department of Resources Recycling and Recovery to develop, implement, and administer a mattress recycling program on or before July 1, 2014. The bill would require manufacturers and retailers of mattresses to register with the mattress recycling organization on or before January 1, 2015.

This bill would prohibit, on and after January 1, 2015, the manufacturer or retailer from, among other things, manufacturing or selling a mattress in this state under circumstances of noncompliance with the bill's requirements. The act would require the retailer, by July

1, 2014, to give a consumer the option to have a used mattress picked up, at no additional cost, at the time a new mattress is delivered.

This bill would require the mattress recycling organization, by April 1, 2015, to develop a state plan for recycling used mattresses in the state that includes specified goals and elements and to submit the plan to the department, as specified. The bill would require the organization, by July 1, 2015, to annually prepare and approve a proposed program plan budget for the next calendar year and to submit the approved budget to the department, as specified. The bill would require the department to notify the organization of the department's direct costs in implementing the act and the organization would be required to reimburse the department for those costs. The bill would require the department to deposit these amounts submitted by the organization into the Used Mattress Recycling Account, which the bill would establish in the Integrated Waste Management Fund. The bill would require the department to expend the moneys in the account, upon appropriation by the Legislature, to administer and enforce the act.

This bill would require the organization to annually set the amount of a state mattress recycling charge that would be added to the purchase price of a mattress, and would require a manufacturer, retailer, wholesaler, distributor, or other party that sells a mattress to add the charge to the purchase price for the mattress and remit the charge collected to the organization. The bill would constitute a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

This bill would authorize the department to impose an administrative civil penalty on a manufacturer or retailer who sells a mattress in violation of the act. The bill would require the department to deposit these penalties into the Mattress Recovery and Recycling Penalty Account, which the bill would create in the Integrated Waste Management Fund. The department would be authorized to expend the moneys in that account, upon appropriation by the Legislature, to implement the act.

~~This bill would establish the Used Mattress Recovery and Recycling Act and would define terms for purposes of the act. The bill would require a manufacturer of mattresses sold in this state, individually, collectively, or through a stewardship organization, to provide in an electronic format an interim plan to the Department of Resources~~

~~Recycling and Recovery by April 1, 2014, that ensures that the manufacturer will be responsible for the collection and recycling of used mattresses generated by consumers. The bill would require a manufacturer to implement the interim plan by July 1, 2014, and to continue implementation until a mattress stewardship plan is approved, conditionally approved, or disapproved by the department.~~

~~The bill would require a manufacturer of mattresses sold in this state, individually, collectively, or through a stewardship organization, to submit a mattress stewardship plan to the department by April 1, 2015. The bill would specify the requirements to be included in the plan, including meeting specified recycling goals. The bill would specify a procedure for the department's approval, disapproval, or conditional approval of a plan.~~

~~The bill would require a retailer of mattresses on and after July 1, 2014, to offer the consumer the option of picking up a used mattress, at the time a new mattress is delivered to the consumer, at no additional cost to the consumer.~~

~~The bill would prohibit a manufacturer or retailer from selling or offering for sale a mattress to any person in this state unless the manufacturer is in compliance with the act and would prohibit a manufacturer from selling a mattress on or after August 1, 2015, if the manufacturer is not covered by an approved or conditionally approved plan. The bill would require the department, by August 1, 2015, except as specified, and by July 1 annually thereafter, to post on its Internet Web site a listing of manufacturers that have submitted a plan and to annually post a listing of manufacturers in compliance with the act. The bill would require retailers that distribute or sell mattresses to monitor the department's Internet Web site to determine if the manufacturer of a mattress is in compliance with the requirements of the act.~~

~~The bill would require a manufacturer, individually, collectively, or through a stewardship organization, to submit an annual report to the department describing its mattress stewardship efforts. The bill would require the department to review the annual report within 90 days of receipt and adopt a finding of compliance or noncompliance with the requirements of the act. The bill would authorize the department to require a manufacturer or stewardship organization submitting that annual report that is not meeting the act's requirements, to amend and resubmit the plan and would require the department to remove the manufacturer's name from the listing of manufacturers that are in compliance, until as specified.~~

~~The bill would require recyclers and renovators, as defined, to submit an annual report to the department regarding mattresses received and recycled and would require the operator of a solid waste facility to submit an annual report to the department regarding the number of used mattresses received and designated for recycling or renovation in the state during the preceding calendar year.~~

~~The bill would authorize the department to require a manufacturer to pay the department a quarterly administrative fee, as determined by the department.~~

~~The bill would require these fees to be deposited into the Mattress Recovery and Recycling Account, which the bill would establish in the Integrated Waste Management Fund. The bill would provide that the moneys in the account would be available for expenditure by the department, upon appropriation by the Legislature.~~

~~The bill would require a manufacturer or stewardship organization to provide the department with reasonable and timely access, as determined by the department, to its facilities or operations, and to provide the department with any relevant records. The bill would require the records to be maintained and accessible for 3 years. The bill would require all reports and records to be provided to the department under penalty of perjury, thereby imposing a state-mandated local program by creating a new crime.~~

~~The bill would allow the department to impose an administrative civil penalty in specified amounts on a manufacturer, stewardship organization, or retailer that is in violation of the act. The bill would require the department to deposit all penalties collected into the Mattress Recovery and Recycling Penalty Account, which the bill would establish in the Integrated Waste Management Fund. The bill would provide that the moneys in the penalty account would be available for expenditure by the department, upon appropriation by the Legislature. The bill would also authorize the department to take other actions to enforce the act.~~

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~yes~~^{no}.

The people of the State of California do enact as follows:

SECTION 1. Chapter 21 (commencing with Section 42985) is added to Part 3 of Division 30 of the Public Resources Code, to read:

CHAPTER 21. USED MATTRESS RECOVERY AND RECYCLING ACT

42985. *The Legislature finds and declares both of the following:*

(a) *In order to reduce illegal dumping, increase recycling, and substantially reduce public agency costs for the end-of-life management of used mattresses, the Used Mattress Recovery and Recycling Act is hereby established by this chapter to require manufacturers and retailers of mattresses sold in this state to develop, finance, and implement a convenient and cost-effective program to recover and recycle used mattresses generated in this state.*

(b) *Consistent with existing state policy, the program developed and implemented by manufacturers and retailers of mattresses sold in this state shall strive for the maximum feasible level of recovery and recycling of used mattresses generated in support of the statewide goal that at least 75 percent of all solid waste be recycled by January 1, 2020.*

42985.1. *This chapter shall be known, and may be cited, as the Used Mattress Recovery and Recycling Act.*

Article 1. Definitions

42986. (a) (1) “Consumer” means an owner of a mattress, including a person, business, corporation, limited partnership, nonprofit organization, or governmental entity, and including the ultimate purchaser, owner, or lessee of a mattress.

(2) “Consumer” does not include a government organization or other party that obtains one or more used mattresses in the course of collecting used mattresses for recycling for purposes of this chapter, or through the ordinary collection and handling of municipal solid waste.

(b) “Distributor” means a company that has a contractual relationship with one or more manufacturers to market and sell mattresses to retailers.

1 (c) “Foundation” means a ticking-covered structure used to
2 support a mattress or sleep surface. The structure may include
3 constructed frames, foam, box springs, or other materials, used
4 alone or in combination.

5 (d) “Importer” means a party qualifying as an “importer of
6 record” for purposes of Section 1484(a)(2)(B) of Title 19 of the
7 United States Code, with regard to the import of a finished mattress
8 sold in the state that was manufactured or assembled by a company
9 outside the United States.

10 (e) “Manufacturer” means any of the following:

11 (1) The person who manufactures the covered product and who
12 sells, offers for sale, or distributes that product in the state.

13 (2) If there is no person who is a manufacturer of the product
14 for purposes of paragraph (1), the manufacturer of the covered
15 product is the person who imports the product into the state for
16 sale or distribution.

17 (3) A manufacturer includes a renovator.

18 (f) (1) “Mattress” means a resilient material or combination
19 of materials that is enclosed by a ticking, is used alone or in
20 combination with other products, and is intended for or promoted
21 for sleeping upon.

22 (2) “Mattress” includes a foundation and a renovated mattress
23 or renovated foundation.

24 (3) “Mattress” does not include the following:

25 (A) An unattached mattress pad or unattached mattress topper,
26 including items with resilient filling, with or without ticking,
27 intended to be used with or on top of a mattress.

28 (B) A sleeping bag or pillow.

29 (C) A car bed, crib, or bassinet mattress.

30 (D) Juvenile products, including a carriage, basket, dressing
31 table, stroller, playpen, infant carrier, lounge pad, or crib bumper,
32 and the pads for those juvenile products.

33 (E) A product containing liquid- and gaseous-filled ticking,
34 including a water bed and air mattress that does not contain
35 upholstery material between the ticking and the mattress core.

36 (F) Upholstered furniture that does not otherwise contain a
37 detachable mattress.

38 (g) “Mattress recycling organization” or “organization” means
39 an organization exempt from taxation under Section 501(c)(3) or
40 Section 501(c)(6) of the Internal Revenue Code of 1986, that is

1 *established by a qualified industry association, composed of*
2 *manufacturers and retailers, and certified pursuant to Section*
3 *42987, to develop, implement, and administer the mattress*
4 *recycling program established pursuant to this chapter.*

5 *(h) “Used mattress recovery and recycling plan” or “plan”*
6 *means the plan for recycling used mattresses that is developed by*
7 *the mattress recycling organization pursuant to this chapter.*

8 *(i) “Program” or “used mattress recycling program” means*
9 *the program implemented by the mattress recycling organization*
10 *pursuant to a plan approved by the department.*

11 *(j) “Qualified industry organization” means the International*
12 *Sleep Products Association, a successor of that organization, or*
13 *a group of mattress manufacturers that collectively represent at*
14 *least 35 percent of the volume of mattresses manufactured in the*
15 *United States.*

16 *(k) “Recycle” or “recycling” has the same meaning as defined*
17 *in Section 40180.*

18 *(l) “Recycler” means a person that engages in the manual or*
19 *mechanical separation of mattresses to substantially recover*
20 *components and commodities contained in mattresses for the*
21 *purpose of reuse or recycling.*

22 *(m) “Recycling charge” or “charge” means the charge imposed*
23 *on the sale of a new or renovated mattress at the point of sale and*
24 *collected by the organization to fund the recycling of used*
25 *mattresses pursuant to this chapter.*

26 *(n) (1) “Renovate” or “renovation” means altering a used*
27 *mattress for the purpose of resale and includes one or more of the*
28 *following:*

29 *(A) Replacing the mattress, ticking, or filling.*

30 *(B) Adding additional filling.*

31 *(C) Rebuilding a used mattress.*

32 *(D) Replacing components with new or postconsumer materials*
33 *unless the material is a clean recycled material, consists of used*
34 *electronic parts or controls, or is a used mattress base that is not*
35 *covered by ticking.*

36 *(2) “Renovate” or “renovation” does not include any of the*
37 *following:*

38 *(A) Stripping a mattress of its ticking or filling without adding*
39 *new material.*

1 (B) Sterilizing or sanitizing a mattress without otherwise altering
2 the mattress.

3 (C) Altering a mattress by a renovator when a person retains
4 the altered mattress for lease, rental, or personal use.

5 (D) Refurbishing that disqualifies a mattress for a yellow
6 wholesale renovator tag to be affixed to the mattress, in accordance
7 with the regulations adopted by the Department of Consumer
8 Affairs.

9 (o) “Renovator” means a person who renovates used mattresses.

10 (p) “Retailer” means a person who sells mattresses in the state
11 or offers to a consumer a mattress in the state through any means,
12 including, but not limited to, by remote offering, including sales
13 outlets or catalogs, electronically through the Internet, by
14 telephone, or through the mail.

15 (q) “Sale” or “sell” means the transfer of title of a mattress
16 for consideration, including by a manufacturer, a distributor, or
17 a retailer for eventual consumption to a consumer in the state,
18 including remote sales conducted through sales outlets, catalogs,
19 or the Internet or any other similar electronic means. For purposes
20 of this chapter, a long-term lease of not less than 12 months is the
21 same as a sale.

22 (r) (1) “Ticking” means the outermost layer of fabric or related
23 material of a mattress.

24 (2) “Ticking” does not include another layer of fabric or related
25 material that is quilted together with, or otherwise attached to,
26 the outermost layer of fabric or related material.

27 (s) “Used mattress” means a mattress that has been discarded
28 by a consumer.

30 Article 2. Mattress Recycling Plan

31
32 42987. (a) (1) On or before July 1, 2014, a qualified industry
33 association or a successor organization may establish a mattress
34 recycling organization for purposes of this chapter, which shall
35 be composed of manufacturers and retailers and be certified
36 pursuant to this section to develop, implement, and administer the
37 mattress recycling program established pursuant to this chapter.

38 (2) Within 60 days of receipt of a request for certification, the
39 department shall notify the requesting qualified industry

1 *association of the department's decision whether or not to certify*
2 *that association.*

3 *(b) On or before January 1, 2015, each manufacturer and*
4 *retailer shall register with the mattress recycling organization.*

5 *(c) On and after January 1, 2015, a retailer shall not sell,*
6 *distribute, or offer for sale a mattress in the state unless the retailer*
7 *is in compliance with this chapter and the manufacturer of the*
8 *mattress sold by the retailer is listed in compliance with this*
9 *chapter.*

10 *(d) On and after January 1, 2015, a manufacturer shall not*
11 *manufacture, assemble, or import a new mattress in this state, or*
12 *sell or distribute a mattress to a distributor or retailer, unless the*
13 *manufacturer is in compliance with this chapter.*

14 *42987.1. On or before April 1, 2015, the mattress recycling*
15 *organization shall develop and submit to the department a plan*
16 *for recycling used mattresses in the state that includes all of the*
17 *following goals and elements:*

18 *(a) Program objectives consistent with the state's solid waste*
19 *management hierarchy.*

20 *(b) The names of manufacturers and brands covered under the*
21 *plan.*

22 *(c) A consultation process with affected stakeholders.*

23 *(d) Methods to increase the number of used mattresses diverted*
24 *from landfills, reduce the number of illegally dumped used*
25 *mattresses, and increase the quantity of used materials recovered*
26 *through this process and recycled for other uses.*

27 *(e) (1) The establishment and administration of a means for*
28 *funding the plan in a manner that distributes the mattress recycling*
29 *organization's costs uniformly over all mattresses sold in the state.*

30 *(2) The funding mechanism shall provide sufficient funding for*
31 *the mattress recycling organization to carry out the plan, including*
32 *the administrative, operational, and capital costs of the plan.*

33 *(f) The publishing of an annual report for each calendar year*
34 *of operation.*

35 *(g) Conducting research, as needed, related to improving used*
36 *mattress collection, dismantling, and recycling operations,*
37 *including pilot programs to test new processes, methods, or*
38 *equipment on a local, regional, or otherwise limited basis.*

39 *(h) Establishing a methodology for the purpose of determining*
40 *the state mattress recycling goal.*

1 (i) A program performance measurement that shall collect
2 program data for the purpose of the annual report. The information
3 shall include:

4 (1) A methodology for estimating the amount of mattresses sold
5 in the state, used mattresses available for collection in the state,
6 and for quantifying the number of used mattresses collected and
7 recycled in the state.

8 (2) A methodology for determining mattresses sold in the state
9 by the manufacturers of the mattress recycling organization.

10 (j) Coordinating activities with existing used product collecting
11 and recycling plans for discarded mattresses or other products,
12 and other relevant parties as appropriate, to provide efficient
13 delivery of services and avoid unnecessary duplication of effort
14 and expense.

15 (k) Entering into contracts or agreements that are necessary
16 and proper for the mattress recycling organization to carry out
17 these duties consistent with the terms of this chapter.

18 (l) Establishment of a financial incentive to encourage parties
19 to collect for recycling used mattresses discarded or illegally
20 dumped in the state.

21 (m) Ensuring local governments and solid waste facilities are
22 provided with a mechanism for the recovery of illegally dumped
23 used mattresses at no additional cost to the local government or
24 solid waste facility.

25 (n) Policies to ensure there are adequate and convenient
26 opportunities for the collection, acceptance, and recovery for
27 recycling used mattresses in low-income communities, in
28 accordance with the poverty line annually established by the
29 Secretary of California Health and Human Services pursuant to
30 the federal Omnibus Budget Reconciliation Act of 1981 (Public
31 Law 97-35), as amended.

32 (o) Ensuring used mattresses recovered by a retailer are
33 delivered to a recycling facility or solid waste facility for recycling.

34 (p) Providing outreach efforts and education to consumers,
35 manufacturers, and retailers, for the purpose of promoting the
36 recycling of used mattresses.

37 (q) Procedures to ensure implementation of the plan if a
38 manufacturer or the mattress recycling organization no longer
39 exists due to bankruptcy, dissolution, or similar processes.

1 (r) (1) Ensuring solid waste facilities offer individuals free
2 drop-off of used mattresses.

3 (2) Reimbursement of solid waste facilities for the reasonable
4 costs incurred of collecting, storing, and processing used
5 mattresses in paragraph (1).

6 (s) Any information deemed necessary by the department related
7 to compliance with the plan.

8 42987.2. In preparing the plan pursuant to Section 42987.1,
9 the mattress recycling organization shall consult with interested
10 stakeholders.

11 42987.3. (a) The department shall review the plan and shall
12 approve, disapprove, or conditionally approve the plan within 90
13 days of receipt of the plan.

14 (b) If the department disapproves the plan pursuant to
15 subdivision (a), the mattress recycling organization shall resubmit
16 a plan to the department. If the mattress recycling organization
17 does not resubmit a plan, or submits a plan that is not approved
18 or conditionally approved by the department, the mattress recycling
19 organization shall be deemed not in compliance with this chapter.

20 (c) The approved plan shall be a public record, except that
21 financial, production, or sales data reported to the department by
22 the mattress recycling organization is not public record for
23 purposes of the California Public Records Act (Chapter 3.5
24 (commencing with Section 6250) of Division 7 of Title 1 of the
25 Government Code) and shall not be open to public inspection. The
26 department may release financial, production, or sales data in
27 summary form only so the information cannot be attributable to
28 a specific manufacturer or retailer.

29 42987.4. Within 30 days after approval or conditional approval
30 by the department, the mattress recycling organization shall
31 implement the approved plan.

32 42987.5. (a) On or before January 1, 2017, based on
33 methodology contained in the plan and information contained in
34 the first annual report, the department shall establish and make
35 public the following:

36 (1) The state mattress recycling baseline amount.

37 (2) The state mattress recycling goals.

38 (b) On or before July 1, 2020, and every four years thereafter,
39 the department shall review, including reviewing for consistency
40 with Section 41780.01, and update as necessary the baseline

1 amount and goals to ensure that the program advances the
2 statewide recycling goal.

3
4 *Article 3. Budget*
5

6 42988. On or before July 1, 2015, and on or before July 1
7 annually thereafter, the mattress recycling organization shall
8 prepare and submit to the department a proposed used mattress
9 recycling program budget for the following calendar year that
10 includes all of the following:

11 (a) Anticipated revenues and costs of implementing the program,
12 including related programs, projects, contracts, and administrative
13 expenses.

14 (b) A recommended funding level sufficient to cover the plan's
15 costs and to operate the mattress recycling program over a
16 multiyear period in a prudent and responsible manner.

17 (c) The amount of the mattress recycling charge and itemization
18 of costs that each charge covers.

19 42988.1. (a) On or before September 1, 2015, and annually
20 thereafter, the department shall approve, disapprove, or
21 conditionally approve a final program budget.

22 (b) (1) If the department disapproves the budget, the mattress
23 recycling organization shall resubmit a revised budget addressing
24 the department's reasons for its decision within 30 days of the
25 disapproval.

26 (2) The department, within 30 days from the date the mattress
27 recycling organization resubmits a revised budget, shall approve,
28 disapprove, or conditionally approve a final program budget.

29 42988.2. (a) The department shall notify the mattress recycling
30 organization of the department's costs in implementing this chapter
31 relating to the mattress recycling organization's activities pursuant
32 to this chapter.

33 (b) On or before July 1, 2015, and once every three months
34 thereafter, and within the fiscal year, the mattress recycling
35 organization shall reimburse the department for costs the
36 department incurs related to the mattress recycling organization's
37 activities pursuant to this chapter.

38 (c) The department shall deposit all moneys submitted for
39 reimbursement costs by the mattress recycling organization
40 pursuant to this section into the Used Mattress Recycling Account,

1 *which is hereby established in the Integrated Waste Management*
2 *Fund. Upon appropriation by the Legislature, moneys in the*
3 *account shall be expended by the department to administer and*
4 *enforce this chapter. The funds collected pursuant to this section*
5 *shall not be expended for any other purpose.*

6
7 *Article 4. Mattress Recycling Charge*
8

9 *42989. (a) The mattress recycling organization shall set the*
10 *amount of the mattress recycling charge that shall be added to the*
11 *purchase price of a mattress at the point of sale and include the*
12 *charge amount in the annual budget.*

13 *(b) The amount of the state mattress recycling charge shall be*
14 *sufficient to fund the revenue requirements set forth in the approved*
15 *budget.*

16 *(c) Changes in the charges shall be made public by the mattress*
17 *recycling organization 60 days before taking effect.*

18 *(d) The charge shall be included in the annual program budget*
19 *for approval by the department.*

20 *42989.1. (a) Each manufacturer, retailer, or distributor that*
21 *sells a mattress to a consumer or to the ultimate end user of the*
22 *mattress in the state shall add the charge to the purchase price of*
23 *the mattress and shall remit the charge collected to the mattress*
24 *recycling organization.*

25 *(b) In each transaction described in subdivision (a), the charge*
26 *shall be clearly visible on the invoice or functionally equivalent*
27 *billing document provided by the seller to the consumer as a*
28 *separate line item.*

29 *(c) The mattress recycling organization shall develop*
30 *reimbursement criteria to enable retailers to recover administrative*
31 *costs associated with collecting the charge.*

32 *(d) The mattress recycling organization shall determine the*
33 *rules and procedures that are necessary and proper to implement*
34 *the collection of the charge in a fair, efficient, and lawful manner.*

35 *42989.2. (a) The mattress recycling organization may conduct*
36 *an audit of those parties that are required to remit the charge to*
37 *the mattress recycling organization to verify that the charges paid*
38 *are proper and accurate and to ensure all parties required by this*
39 *chapter to pay or collect the charge are paying or collecting the*
40 *proper amount.*

1 (b) An audit conducted pursuant to this section shall be carried
2 out in accordance with generally accepted auditing practices and
3 shall be limited in scope to confirming whether the charge has
4 been properly collected on all sales of mattresses to consumers in
5 the state.

6 (c) For purposes of conducting audits pursuant to this section,
7 the mattress recycling organization shall hire independent
8 third-party auditors that are approved by the department.

9 (d) If the mattress recycling organization conducts an audit
10 pursuant to this section, the organization shall provide a copy of
11 the audit to the department upon request by the department.

12 42989.3. (a) The mattress recycling organization shall deposit
13 the charges and other moneys collected by the mattress recycling
14 organization pursuant to this chapter in accounts that are
15 maintained and disbursed by the organization.

16 (b) The mattress recycling organization may enter into a joint
17 venture, agreements, or contracts with third parties, including,
18 but not limited to, corporations, partnerships, nonprofit entities,
19 and governmental agencies, to undertake activities on the mattress
20 recycling organization's behalf that are consistent with this
21 chapter.

22 Article 5. Records, Audits, and Annual Report

23 42990. (a) The mattress recycling organization shall keep
24 minutes, books, and records that clearly reflect the activities and
25 transactions of the mattress recycling organization.

26 (b) The books of the mattress recycling organization shall be
27 audited at the organization's expense by a certified public
28 accountant retained by the organization and approved by the
29 department at least once each calendar year.

30 (c) The mattress recycling organization shall arrange for the
31 audit to be delivered to the department. The department shall
32 review the audit for compliance with this chapter and consistency
33 with the plan created pursuant to this chapter. The department
34 shall notify the mattress recycling organization of any compliance
35 issues or inconsistencies. The mattress recycling organization may
36 obtain copies of the audit upon request. The department shall not
37 disclose any confidential proprietary information in the audit.
38
39

1 42990.1. *On or before April 1, 2016, and each year thereafter,*
2 *the mattress recycling organization shall submit to the department*
3 *and make publicly available on its Internet Web site a report that*
4 *includes, for the preceding calendar year, all of the following:*

5 (a) *The mattress recycling organization's costs and revenues.*
6 (b) *The quantity of mattresses disposed of in solid waste*
7 *landfills, which shall be provided by the department to interested*
8 *parties.*

9 (c) *The quantity of discarded used mattresses collected for*
10 *recycling in the program.*

11 (d) *The quantity of used mattresses collected for recycling from*
12 *different categories of sources.*

13 (e) *The quantity of each category of materials recycled.*

14 (f) *The uses for the recycled materials.*

15 (g) *The quantity of otherwise disposed of materials.*

16 (h) *A description of methods used to collect, transport, and*
17 *process waste mattresses in this state.*

18 (i) *Examples of educational materials that were provided to*
19 *consumers the first year and any changes to those materials in*
20 *subsequent years.*

21 (j) *The total volume, number, and weight of used mattresses*
22 *collected recycled, renovated, and reused in this state during the*
23 *preceding calendar year, including any conversion factor used to*
24 *determine the number of mattresses recovered.*

25 (k) *Other information relevant to compliance with the plan.*

26
27 Article 6. *Mattress Recycling and Renovating*
28

29 42991. (a) *On or before April 1, 2016, and annually thereafter,*
30 *a person that is engaged in business as a recycler or renovator*
31 *shall submit a report to the department that includes the following:*

32 (1) *Quantitative information on the number of mattresses*
33 *received and recycled or renovated in the state during the*
34 *preceding calendar year.*

35 (2) *Any information deemed necessary by the department related*
36 *to compliance with this chapter.*

37 (b) *For purposes of determining the recycling rate for a used*
38 *mattress, on or before April 1, 2016, and annually thereafter, a*
39 *solid waste landfill facility operator shall report to the department,*
40 *in a form and manner determined by the department, regarding*

1 *the number of used mattresses received and designated for*
2 *recycling or renovation within the state in the preceding calendar*
3 *year.*

4
5 *Article 7. Retailer Used Mattress Take-back*
6

7 *42992. On and after July 1, 2014, a retailer shall offer a*
8 *consumer the option to have a used mattress picked up for recovery*
9 *at the time of delivery, at no additional cost to the consumer, if a*
10 *new mattress is delivered to the consumer.*

11
12 *Article 8. Enforcement*
13

14 *42993. (a) On or before July 1, 2016, and annually thereafter,*
15 *the department shall post on its Internet Web site a list of*
16 *manufacturers and retailers that are in compliance with this*
17 *chapter.*

18 *(b) A manufacturer or retailer that is not listed on the*
19 *department's Internet Web site pursuant to this section, but*
20 *demonstrates compliance with this chapter before the next notice*
21 *is required to be posted pursuant to this section, may request a*
22 *certification letter from the department stating the manufacturer*
23 *or retailer is in compliance. The manufacturer or retailer that*
24 *receives the letter shall be deemed to be in compliance with this*
25 *chapter.*

26 *(c) A retailer that distributes or sells a mattress shall monitor*
27 *the department's Internet Web site to determine if a manufacturer*
28 *is in compliance with this chapter. A retailer otherwise in*
29 *compliance with this chapter shall be deemed in compliance with*
30 *the chapter if, on the date the retailer ordered or purchased a*
31 *mattress, or within seven calendar days before or after that date,*
32 *the manufacturer was listed as covered or compliant on the*
33 *department's Internet Web site.*

34 *(d) If the department determines a manufacturer or retailer is*
35 *not in compliance with this chapter, the department shall remove*
36 *the manufacturer or retailer from the department's Internet Web*
37 *site pursuant to this section and the manufacturer or retailer shall*
38 *not sell a mattress in the state until the department determines the*
39 *manufacturer or retailer is in compliance with this chapter.*

1 42993.1. (a) *The department may impose an administrative*
2 *civil penalty on any manufacturer, mattress recycling organization,*
3 *recycler, renovator, or retailer that is in violation of this chapter.*
4 *The amount of the administrative civil penalty shall not exceed*
5 *five hundred dollars (\$500) per day, but, if the violation is*
6 *intentional, knowing, or reckless, the department may impose an*
7 *administrative civil penalty of not more than five thousand dollars*
8 *(\$5,000) per day.*

9 (b) *The department shall not impose a penalty on the mattress*
10 *recycling organization pursuant to this section for a failure to*
11 *comply with this chapter if the organization demonstrates it*
12 *received false or misleading information from a member of the*
13 *organization that was the direct cause of its failure to comply.*

14 (c) *The department shall deposit all penalties collected pursuant*
15 *to this section into the Mattress Recovery and Recycling Penalty*
16 *Account, which is hereby created in the Integrated Waste*
17 *Management Fund. Upon appropriation by the Legislature, moneys*
18 *deposited into the Mattress Recovery and Recycling Penalty*
19 *Account may be expended by the department to administer and*
20 *enforce this chapter.*

21 42993.2. *Upon finding that a manufacturer, mattress recycling*
22 *organization, or retailer has not met a requirement of this chapter,*
23 *in addition to any other penalties authorized under this chapter,*
24 *the department may take any of the following actions to ensure*
25 *compliance with the requirements of this chapter:*

26 (a) *Revoke the mattress recycling organization's plan approval,*
27 *amend an approval or conditional approval to include new*
28 *conditions, or require the mattress recycling organization to*
29 *resubmit the plan.*

30 (b) *Remove the manufacturer or retailer from the department's*
31 *Internet Web site and list of compliant manufacturers and retailers,*
32 *as specified in Section 42993.*

33 (c) *Require additional reporting requirements.*

34 42993.3. (a) *A manufacturer and mattress recycling*
35 *organization shall do both of the following:*

36 (1) *Upon request, provide the department with reasonable and*
37 *timely access, as determined by the department and as authorized*
38 *pursuant to Title 13 (commencing with Section 1822.50) of Part*
39 *3 of the Code of Civil Procedure, to its facilities and operations,*
40 *as necessary to determine compliance with this chapter.*

1 (2) Upon request, provide the department with relevant records
2 necessary to determine compliance with this chapter.

3 (b) The records required by this chapter shall be maintained
4 and accessible for three years. All reports and records provided
5 to the department pursuant to this chapter shall be provided under
6 penalty of perjury.

7 (c) The department may take disciplinary action against a
8 manufacturer or mattress recycling organization if the
9 manufacturer or mattress recycling organization fails to provide
10 the department with the access required pursuant to this section,
11 including, but not limited to, imposing penalties pursuant to Section
12 42993.1 and posting an immediate notice on the department's
13 Internet Web site pursuant to Section 42993 that the manufacturer
14 is no longer in compliance with this chapter.

15
16 Article 9. Antitrust Immunity
17

18 42994. (a) Except as provided in subdivision (c), an action
19 specified in subdivision (b) that is taken by a stewardship
20 organization or its members that relates to any of the following is
21 not a violation of the Cartwright Act (Chapter 2 (commencing with
22 Section 16700) of Part 2 of Division 7 of the Business and
23 Professions Code), the Unfair Practices Act (Chapter 4
24 (commencing with Section 17000) of Part 2 of Division 7 of the
25 Business and Professions Code), or the Unfair Competition Law
26 (Chapter 5 (commencing with Section 17200) of Part 2 of Division
27 7 of the Business and Professions Code).

28 (b) Subdivision (a) shall apply to all of the following actions
29 taken by the mattress recycling organization or a manufacturer:

30 (1) The creation, implementation, or management of a plan
31 approved by the department pursuant to Article 2 (commencing
32 with Section 42987) and the types or quantities of used mattresses
33 recycled or otherwise managed pursuant to a plan, as described
34 in Article 2 (commencing with Section 42987).

35 (2) The cost and structure of an approved plan.

36 (3) The establishment, administration, or disbursement of the
37 costs associated with funding the implementation of this chapter.

38 (c) Subdivision (a) shall not apply to an agreement that does
39 any of the following:

1 *(1) Fixes a price of or for mattresses, except for an agreement*
2 *related to costs associated with participation in a plan approved*
3 *or conditionally approved by the department and otherwise in*
4 *accordance with this chapter.*

5 *(2) Fixes the output of production of mattresses.*

6 *(3) Restricts the geographic area in which, or customers to*
7 *whom, mattresses will be sold.*

8
9
10 **All matter omitted in this version of the bill**
11 **appears in the bill as amended in the**
12 **Senate, April 1, 2013. (JR11)**
13